

# TRIBAL SELF-DETERMINATION

## ISSUE

Under Self-Determination, Tribes have three options for receiving their health care: (1) directly from the Indian Health Service (IHS), (2) through contracting with the IHS to have the administrative control, operation, and funding for health programs transferred to American Indian and Alaska Native Tribal governments, or (3) through compacting with the IHS and assuming even greater control and autonomy for the provision of their own health care services.



## BACKGROUND

President Nixon was instrumental in promoting the policy and legislation for Tribal Self-Determination, and in 1975, President Ford signed into law the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638. This landmark legislation recognized the primacy of the Government-to-Government relationship between the United States and sovereign Tribal nations. The Act provides Tribes with the option of either assuming from the IHS the administration and operation of health services and programs in their communities (Title I, Title V) or remaining within the IHS-administered direct care health system.

Subsequent amendments to the ISDEAA have only strengthened the Federal policy of Self-Determination for Indian people. In 1994, the ISDEAA was further amended to authorize a Tribal Self-Governance Demonstration Project in the IHS, which enabled selected Tribes to explore Self-Governance management and health-delivery initiatives. In 1996, Tribal leaders and representatives participated with Federal agencies in a negotiated rulemaking process that resulted in a Final Rule to implement the 1988 and 1994 amendments (Title I) to the ISDEAA. On August 18, 2000, the ISDEAA was amended by P.L. 106-260, which provided for further self-governance by Indian Tribes. This authorized a permanent Tribal-Self-Governance Program (TSGP) in the IHS and required that implementing regulations be developed through a negotiated rulemaking process. On May 17, 2002, the *Federal Register* promulgated the Tribal Self-Governance Amendments of 2000 Final Rule to implement amendments (Title V) to the ISDEAA.

## SITUATION

At present, over 54% of the IHS budget authority appropriation is administered by Tribes under the authority of the ISDEAA, as amended. The TSGP alone accounts for 30% of the IHS budget, which provides for 38% of total IHS users. Each year, additional IHS programs are assumed by Tribes under the authority of this Act.

As of January of 2006, a total of 71 government-to-government Compacts encompassing 91 fiscal year and calendar year Funding Agreements (FA) have been negotiated. This represents 312 Tribes participating in the TSGP, or 56% of federally recognized Tribes that are compacted with the United States through the Indian Health Service under Self-Governance authority.

## OPTIONS/PLANS

During 2005, the Office of Management and Budget used the Program Assessment and Rating Tool (PART) to assess tribally-operated health programs. The official PART scores will be released in 2006.

## ADDITIONAL INFORMATION

For referral to the appropriate spokesperson, contact the IHS Public Affairs Staff at 301-443-3593.

*This issue summary should be used in conjunction with the IHS "Heritage and Health" and "IHS Profile" documents, available at <http://info.ihs.gov>*

January 2006